WORLD CHRONICLE

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PROGRAMME: "WORLD CHRONICLE"

GUEST: Roger Clark, Expert Member
U.N. Committee on Crime Prevention and Control

JOURNALISTS: Anthony Goodman, Reuters
Linda Fasulo, WNYC Broadcasting
Roy Murphy, Television New Zealand

MODERATOR: Michael Littlejohns

SYNOPSIS

Crime Prevention and Control

Roger Clark, an expert member of the United Nations Committee on Crime Prevention and Control, and distinguished professor of Law at Rutgers University, discusses the work of the Committee. He indicates that the trend at the U.N. is to move away from criminal incarceration, with more emphasis on crime prevention.

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Executive Producer: Yuanchi Chen
Director: Livingston Hinckley
Production Assistant: Diane Barkley

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VOICE From United Nations Headquarters in New York, this is World Chronicle, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's World Chronicle.

LITTLEJOHNS: I'm Michael Littlejohns and this is WORLD CHRONICLE.

According to the latest United Nations survey, between 1980 and 1986, the number of reported violent crimes against persons rose by nine percent worldwide and reported property crimes increased by almost 30%. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is to be held at the end of August in Havana, Cuba. It will provide a universal forum for governments and professionals to discuss their common problems, share experiences, establish sound policies and promote international co-operation in the field of crime prevention and criminal justice.

Our guest today , Roger Clark of New Zealand, is an Expert Member of the United Nations Committee on Crime Prevention and Control which participated in the preparation of the Congress. He's also a distinguished professor at Rutgers University Law School in Camden, New Jersey. Prof. Clark will be interviewed here at United Nations Headquarters in New York by: Anthony Goodman of Reuters; Linda Fasulo of WNYC Broadcasting; and Roy Murphy of Television New Zealand.

For some background information, here's a report from our correspondent, Steve Whitehouse.

WHITEHOUSE: Crime is everywhere and growing rapidly. The United Nations estimates that recorded crimes increased from 350 million worldwide in 1975 to 500 million in 1990. In an average lifetime, almost every citizen will be victimized by theft; 8 out of 10 people will suffer an attempted violent offence.

With modern methods of transport and communications, crime is now becoming increasingly international. New and sophisticated forms of transnational crime, such as terrorism, hijacking and bombings are beyond the control of any individual country. Illicit drug trafficking, for example, has become a major world industry. It's a $500 billion a year business, the second largest trade in the world, next only to the arms trade.

Widespread organized crime is a growing international concern. Criminal organizations are taking increasing advantage of new technology and global opportunities to expand their illegal enterprises. Since almost all drug sales are cash transactions, traffickers use banks which, either knowingly or unknowingly, accept deposits of illicit profits. These assets are later "laundered" or moved into other accounts or investments in legitimate businesses.

What causes crime? There are no simple answers. Many believe that economic and social conditions prevalent in urban slums, overcrowded neighbourhoods, or vice-ridden streets, are major breeding grounds. Street children from poor or broken homes are easy prey. Increasingly large numbers of young people have become involved in drug abuse, theft and reckless violence. In some countries juvenile offenders count for 60-70 percent of all recorded crimes.

An expanding prison population is a problem facing many countries. Well managed correction centres, for example this juvenile prison in Egypt, play a vital role in educating and training young inmates to be responsible citizens. They try to induce in young offenders a sense of pride so they won't repeat criminal offences in the future.

However, crimes of violence do not occur only among the poor. Computer crime is at the cutting edge of white-collar offences. Each year, billions of dollars from illicit trade, tax evasion and embezzlement are diverted electronically.

With the internationalization of crime, no country can effectively tackle it on its own. The focus on strengthened international co-operation in crime prevention and control at the upcoming UN Crime Congress is an important step in the fight against the criminal underworld.

LITTLEJOHNS: Prof. Clark, the fact that this conference is being held in Havana, is this going to exclude the United States which doesn't have relations with Cuba and in fact has an embargo against Cuba?

CLARK: Yes, that seems to be the present position. The United States has taken a position that it will be unable to attend as a result of the conference being in Cuba.

LITTLEJOHNS: Why was the decision taken to hold it in Cuba given that unusual situation?

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CLARK: Well, the Economic and Social Council made the decision to hold it in Cuba because Cuba was essentially the only person who invited the United Nations to come to their country for the Congress. It's normal to go wherever they're invited. That was the only invitation and it was ultimately accepted.

LITTLEJOHNS: How many countries will be represented at the conference if the United States is not there?

CLARK: Oh, I would think that the vast majority of the United Nations 160 members will be represented.

GOODMAN: Prof. Clark, I think a lot of people would be surprised to know that the United Nations is involved in crime control, it's not a highly publicized aspect of its work. Could you perhaps give us a little background and tell us how the question of crime and crime control came into the UN purview?

CLARK: The main way in which the United Nations came into the business was that it inherited the work that had been done from the 1880s onwards by a body called the International Penary and Penitentiary Commission. The main focus of the Commission's work had been a five-yearly congress on crime and the treatment of offenders which it held virtually every five years from 1885 onwards, with exceptions during the major wars, and the United Nations took over that enterprise in 1950 and since 1955 it itself has been holding the five-yearly congress. Now, of course, the Congress is a sort of a focal point for it all but there's a secretariat unit located in Vienna which works on the issue and there's the Committee on which I serve, committee of 27 experts worldwide, and that gives general direction to the programme so that there's quite a substantial investment of effort on the United Nations part. I

suppose I should add that in addition to the general work that the United Nations does in the crime and criminal justice area, it also does a lot of work in relation to the drug question and has a separate and to some extent overlapping operation that deals with the drug question also operating out of Vienna.

GOODMAN: Are we to assume that the Committee on Crime Prevention and Control is a committee of experts rather than of government representatives?

CLARK: That is correct, yes.

FASULO: Dr. Clark, in what areas would you say the U.N. has been most effective in combating crime or helping nations to combat crime?

CLARK: I don't know that you can prove anybody's been really successful in helping the combat of crime. I like to think that in many ways the most successful part of the United Nations operation in this area is the standard minimum rules for the treatment of prisoners and the general notion of developing standards for the treatment of people in the criminal justice system. If you like, human rights and the administration of criminal justice, but certainly the United Nations has moved beyond the civil and political rights area in trying to do things about economic, social, cultural rights, the sort of things that hopefully, has some effect on reducing crime.

FASULO: In the introduction it showed that juveniles are participating more and more in committing the crimes and that this is obviously an international trend, are there any nations that seem to be immune from this situation?

CLARK: No. I think one of the interesting things about the discussions that I've seen in the Committee at all events, is that everybody has that problem. I think, for example, some of the Eastern European countries liked to think for many years that they didn't have that kind of problem but they certainly do and they admit they have a juvenile delinquency problem. It is certainly a problem that the United Nations has discussed at great length the whole of the time that it has been dealing with these questions and again, I think in many ways they've been most successful in developing standards for ways in which to treat juveniles who are in the system. Increasingly, efforts have been made to try to talk about prevention and one of the documents that is being considered for adoption at the Havana Congress, is a document on the prevention of juvenile delinquency. I think that you would probably regard it as a blueprint for a decent society because what it says essentially is we have to do more about education, health, housing, all of those good things. Now you know and I know that that's not going to stamp out juvenile delinquency but I think all of us believe that it can help some and that one has to move in these directions and at least try to do something about it and I think it's fair to say that the United Nations position has certainly been that one uses custodial measures against juveniles as a last resort. Sometimes you've just got to lock them up because they're bad people and there's no other way you can deal with the situation but that is a resolution of last resort and the United Nations documents over the whole period really have endeavoured to spell that out in quite some detail.

MURPHY: You've just said that the United Nations' major thrust is towards the humane treatment of prisoners and so forth in detention, isn't that rather putting the cart before the horse because reports are now saying that crime has outstripped our ability to reduce the incidence of crime and

it's even getting close to outstripping our ability to control it at all? Is there going to be a much greater emphasis on crime prevention rather than on treatment of prisoners in the future?

CLARK: I think there are two points one has to make in answer to that. One is that I think there's been an increasing trend in the United Nations material to move away from incarceration, again for adults as well as juveniles, if you possibly can and there are a lot of reasons for that. I think some of them are ideological, some of them are simply because people don't want to pay for prisons but there's a second movement and again, I think if you look at the documentation for the Eighth Congress in Havana, there's a lot of material in there on prevention and I think it's also the case that no one has a magic formula for crime prevention. There are some things you can do. Obviously if you put burglar alarms in houses you won't have quite as many burglars getting into those houses at least -- they may go somewhere else but they won't get into those particular houses. If you lock burglars up you'll have some effect on burglary. Similarly, if you improve society in a general way, cut down on unemployment, have decent housing and safe streets and so on, you can have some impact on the amount of crime and I think that the documents certainly reflect a tendency to try to emphasize prevention matters more than ways of dealing with people in the criminal justice system. There's I suppose yet another point that one ought to make in this context. There's a lot of literature that's been written the last 20 years perhaps about what I suppose you call the demise of the rehabilitative ideal. To put it very crudely, I think many people, at least up until the '50s and maybe beyond that, believed that we really knew how to rehabilitate criminals. We could take them and we could educate them, we could fix them up and we could put them back

into society as good people and I think we did a lot of strange things -- denials of human rights, we'd keep people in too long, we treated them in strange ways that didn't really get results and there's certainly an enormous tendency in the literature and in the debates within the United Nations since the 1960s, to move away from that notion that rehabilitation was all and we really knew what we were doing. Once you start focusing on something different, one of the things you have to focus on I think is, well, how can we prevent it in the first place, let's look at it from a different view point and we're still trying to do that.

LITTLEJOHNS: The programme is **WORLD CHRONICLE**. Our guest is Roger Clark, Expert Member of the United Nations Committee on Crime Prevention and Control.

MURPHY: If you're looking at preventing a crime the international problem is how can you agree on what is a crime? I mean we have a very stark example. We have a head of a government, the Iranian Government, condemning another man to death for a book he's published, without a trial, and in fact even offering a $1 million reward to anybody who would take justice into his own hands and effect that execution, so how can you get any kind of agreement throughout all the different cultures and governments of the world on exactly what is a crime and how it should be treated?

CLARK: I don't want to deny the difficulty of what you're saying but it's not unlike the problem with many legal concepts, namely that there's a core that one can agree upon and there are a lot of things out on the margins that one might not agree upon. Most people I think these days agree that murder is bad, most people agree that ripping off consumers is bad, most people agree that some kinds of assaults on the environment

ought to be punished in a criminal sort of way, most people I think agree that some kinds of corruption -- and one can argue about which kinds -- are bad and ought to be criminalized. Certainly you can normally get states to agree about various aspects of the drug traffic and to say that we ought to criminalize that and I think it's a wonderful example of politics being the art of the possible. There are some things you can agree upon at the international level. One of the things that the Crime Congresses, these last few of them have talked about, is the question of terrorism. Now we've never been able to agree on a definition of terrorism but we can agree by and large that hijacking aircraft is wrong and is and ought to be criminal, we can agree that blowing up somebody's aircraft is criminal, we can agree that the taking of hostages, even for perfectly good motives, is criminal. I think that we've agreed that blowing up our ships is criminal and so forth. There's a list of discreet things that you can take out and I think that one of the things that is notable about the work of the Crime Congresses is that you get a lot of professionals there, people who are heads of ministries of justice, ministries of social welfare and so forth, and if you think about the problems at a professional level you can get a surprising amount of agreement that you might not get if you turned the ideologues loose and let them argue about what ought to be done about certain kinds of crimes.

GOODMAN: Prof. Clark, the criminal justice system in a country is often a reflection or a symbol of its political system and in the past we've had bad examples -- say like the Bastille was one such symbol, in our own age we've had the era of the concentration camp and the gulag and the so-called re-education camp, surely this brings a very political atmosphere into the discussions of these Congresses?

CLARK: Well, there are levels of politics, aren't there, and if I may go back to my point about expertise one of the interesting things for example that the 1975 Congress did was adopt a draft of a declaration against torture which was approved later that year by the General Assembly and I think it's very interesting if you get a bunch of prison administrators together or a bunch of police officials and you appeal to their professionalism, by and large they're against torturing prisoners and they'll go on record to that effect.

LITTLEJOHNS: Then they'll go back home and torture them.

CLARK: They may or they may not. You can at least get agreement at the level of saying we're not going to do that so I think the U.N. has always been more successful at making the statements of principle and slowly incorporating them into the corpus of international law. It's always a hard problem how you go to the next stage of trying to give effect to that. Indeed, one of the things that the Committee on Crime Prevention and Control has been trying to do in a very tentative and a halting way I think is to move to the next stage of how you persuade governments to live up to some of those lofty ideals, and it's not easy to do. The human rights part of the United Nations has been having some impact in those areas and my Committee has been getting reports out of people and trying to persuade them to live up to their reports. Very slow business. I think one can have some impact.

FASULO: Technological advances and modern communications are certainly being utilized by international criminals, would you say that technology is on the side of the criminals or will law enforcement agencies eventually catch up? Are there grounds to be optimistic?

CLARK: Oh, I think there are grounds to be optimistic as certainly among the things being discussed at the Congresses an effort to make greater use of networking by technological means, greater use of data bases and information generally and whatever sophisticated material it requires to respond to sophisticated efforts like the drug trade. You see that in another way I suppose in the 1988 Drug Convention which makes efforts to move the technology along too. Look I'm an optimist.

MURPHY: I'd like to pick up the point of computer crime which was mentioned. One of the reports has a rather odd figure that says only 15% of computer crime is actually detected which leads one to wonder how do they know there's all that other stuff out there if they can't detect it, but they also offered the figure that the average computer crime involves more than $200,000? Does computer crime seem to be a very increasing and important part of international crime at the moment? Is it really a big deal or not?

CLARK: I can answer the last question in a general sort of way. Most of the literature has suggested that it is a big deal and that people are taking it seriously. I personally have grave doubts about those kinds of numbers. You know criminal statistics in general are always a bit dubious in relation to what's always been referred to as the dark figure of crime, that which is not reported, and you can do various kinds of surveys and ask computer users what kind of crimes they get up to and perhaps you can get some sort of answers from those numbers. I would say the numbers are very dubious but the general trend of an increase of crime and the general trend that it's underreported I would certainly say seems to be consistent with what hard data that there is.

MURPHY: So are they developing general international rules to deal with computer related crime?

CLARK: People are talking about developing international laws. I haven't seen anything really concrete that has emerged from that discussion yet but again I'm not a computer buff but I suspect that we're moving in that direction, yes.

LITTLEJOHNS: Prof. Clark, speaking of deterrence New Zealand I think was one of the first countries to abolish the death penalty, do you feel as an expert that the death penalty is in fact a deterrent?

CLARK: Oh, the literature is overwhelmingly in support of the proposition that it makes no difference one way or the other whether you have the death penalty or not. Assuming you're comparing having a long term of imprisonment against execution what statistical data there is in every country that has done the work, does not support the argument that the death penalty deters. If I may just make another point about that, personally I'm opposed to the death penalty and I would not make the argument on the basis of whether it works or not but that's another argument.

GOODMAN: Professor, I believe you mentioned earlier the U.N. standard minimum rules for the treatment of prisoners. I believe that was promulgated by the U.N. about 1957?

CLARK: 1955 by the Congress and then the Economic and Social Council approved it in '57, yes.

GOODMAN: How widespread is the observance of these rules? Is there something which is widely followed and is there a mechanism for ensuring that it is followed?

CLARK: What happens is that the United Nations does a survey every few years and inquires about what countries are doing and some effort is made to search the literature. My guess would be that about half the countries of the world make some serious effort to give effect to the standard minimum rules. For example. when New Zealand rewrote its prison regulations some years ago they made an effort to incorporate them. The State of Pennsylvania incorporates some of the very language of the standard minimum rules in the rules for the way in which matters are conducted in the Pennsylvania prisons. Now, I've no idea the extent to which that translates into actual carrying out of the rules. I know I was called as an expert witness in a case in Pennsylvania where pretty clearly they weren't carrying them out in spite of it what it seemed to say and I'm sure that must be the case in many other jurisdictions. I want to sound optimistic about this because you've got to start somewhere and having standards is somewhere where you have to start then the question is plugging away on the standards and it takes a long time. It's taken a long time in the United States to give effect to the Bill of Rights in a case here and in a case there. The same kind of thing has to happen at the international level.

FASULO: The U.N. survey showed that crime is obviously increasing worldwide but is it increasing evenly or is there a particular rise, perhaps in certain Third World countries or in the developed world? Where is it?

CLARK: Well, a lot of those figures seem to suggest increases in the Third World. I'm not entirely sure what that proves. It may prove that they're getting more efficient in collecting criminal statistics, it may prove that once you have an urbanized society people report crime more because instead of dealing with it in traditional ways they now

go through a police and court system so I think it's very difficult to know precisely what to make of all of those figures and precisely what it means in detailed terms.

MURPHY: You've spoken about your optimism of agreeing to a sort of body of what is a crime and what isn't. You might be more optimistic than some but isn't it also one of the problems because of this lack of agreement or lack of a widespread general agreement that there is no body of international law that you can refer to? In other words, when a case comes up, you don't have any precedents or any cases to go by and say we decided this last year therefore this case must go this way. Is that a big problem?

CLARK: Well, I think it is a problem but as I suggested before, there is a general area of agreement and one can see some trends. For example, one can seem some trends in the area of extradition, a movement towards a notion that criminals really ought to be extradited and if they aren't that you ought to find some way to punish them in the place that refuses to extradite them, the extradite or prosecute notion. Now, we've moved a long way in that direction with terrorists and I think we're starting to move more in that direction with common criminals. You could take what areas you can agree upon and work from there but I don't deny that we have a long way to go.

MURPHY: There are still large holes, is this work going to be largely done by the United Nations or is it going to be done largely as a bilateral thing between different countries?

CLARK: Oh, I think it's going to be done by the United Nations, bilaterally and by other organizations -- the Commonwealth for example -- or at the regional level. There are

all sorts of levels which one has to offer to be effective in this area and the United Nations is only one of them.

LITTLEJOHNS: Prof. Clark, that's all the time we have. Thank you for joining us on this edition of **WORLD CHRONICLE** and for giving us very interesting insights.

Our guest has been Roger Clark, Expert Member of the United Nations Committee on Crime Prevention and Control. He was interviewed here at United Nations Headquarters in New York by: Anthony Goodman of Reuters; Linda Fasulo of WNYC Broadcasting; and Roy Murphy of Television New Zealand.

I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of **WORLD CHRONICLE**

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